

# Independent Rates Oversight Committee – IROC

February 22, 2011

## MINUTES

### 1. **Roll Call**

Chairperson Peugh brought the meeting to order at 9:33 a.m. Monica Foster called the roll and a quorum was declared. Attendance is reflected below:

Member	Present	Absent
Jim Peugh, Chair	X	
Don Billings	X	
Christopher Dull	X	
Andy Hollingworth	X	
Jack Kubota	X	
Colin Murray (departed at 11:45)	X	
Irene Stallard-Rodriguez	X	
Todd Webster	X	
Gail Welch (arrived at 10:10)	X	
Ex-Officios		
Augie Caires, Metro JPA	X	
Ken Williams, City 10	X	

Department representatives: Roger Bailey, Director of Public Utilities; Alex Ruiz, Assistant Director; Ann Sasaki, Assistant Director; Tom Zeleny, Deputy City Attorney. Others in attendance: Mark Robak, Metro JPA, Alternate; Brent Eidson, Policy Advisor, Mayor's Office

### 2. **Non-Agenda Public Comment**

None.

### 3. **Approval of Draft Minutes from January 18, 2011**

Chairperson Peugh asked for a motion to approve the January 18, 2011 Draft Minutes. Committee Member Stallard-Rodriguez moved, Vice Chair Hollingworth seconded, all were in favor to approve as submitted.

### 4. **Chair Updates – Chairperson Peugh**

None.

### 5. **City Staff Updates**

Roger Bailey, Department Director

- City Council hearing on January 24, voted to adopt the Rate Adjustment as recommended by staff. This will go into effect on March 1, 2011.
- The Mayor has informed the 2 unions of the elimination of the Bid-to-Goal Program (Program). He with the Rules Committee recently, they voted to move forward with taking to full Council. The two items are a) recommendation of Council amending the Agreement for the Wastewater Branch, and b) implement the terms of the Bid-to-Goal Program for the Water and Customer Service groups. Council should hear these items in March.

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Chairperson Peugh asked what type of program will replace this, and how long this will take to approve. Mr. Bailey indicated we do not yet have a solution. The Department wants to make sure the high level of efficiencies seen as a result of the Program is maintained. This topic will be thoroughly looked into, and brought back to IROC in the future. He welcomes all suggestions, and will route through the Mayor's Office.

Committee Member Billings commented he looks at the elimination of the Bid-to-Goal Program with regret. He added the idea is to run this operation like a business, and to incentivize staff in a transparent way, he definitely supports. He asked if the pay outs will still be done, and will the process (managed competition) be abandoned now that the Program has been terminated, which he feels would be unfortunate.

As stated earlier, Mr. Bailey indicated the items will go to Council, and if voted on and adopted the employees in all three branches taking part, will receive pay outs for Fiscal Years (FY) 2009, 2010, and 2011, each taking time for the audits and processes to be completed individually. The Program will end on the start of FY 2012. Secondly, he stated we have not been instructed to take the managed competition portion away, we will have to wait and see what type of tools we have available for the future. He welcomes all suggestions as we move forward.

Alex Ruiz, Assistant Director:

- Will go to NR&C on March 2 to provide further updates.
  - Continue to achieve conservation targets, customers are doing very well. Customers have achieved about 15% total reduction.
  - Reservoirs continue to be ahead of where they were last year.
  - MET and SDCWA will take action in the Spring to decide if we will be in a mandatory drought for the coming Fiscal Year.
- Continue to move forward with the installation and equipment necessary for the IPR Project to turn it on-line. Expect to have operations underway near the end of this Spring, early Summer.

Stan Medina, Deputy Director, Construction Maintenance:

- Updated information for water main breaks: 32 - Transite Pipe, 46 - Cast Iron, 1 - Ductile Iron, 7 - PVC, and 2 Steel breaks. Total breaks were 89 for this Fiscal Year, last year we were at 93.
- The recent significant break at the Canastoga Place at Canastoga Way did create a problem with the sewer system by over inundating it. There was damage to the sewer manhole which was repaired. This took 2.5 hours, due to the complications with large valves with bypasses which were buried. After detection it was jack hammered, accessed and turned off. This took some time.

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Stan Griffith, Deputy Director, Wastewater Collection

- Since last report, there have been 7 Sanitary Sewer Overflows (SSO) two of which made it to the public waters. They were not very significant. Over all, we are in great shape comparing to last year this time were at 11 spills.

Committee Member Webster asked if the Regional Board fines the City for these small spills. Mr. Bailey indicated all spills are reported regardless of size, however we have not had any fines recently.

**6. Comprehensive Policy for a Sustainable Water Supply**

Councilmember Lightner gave a brief overview of the provided Draft Comprehensive Policy for Sustainable Water Supply (Comprehensive Water Policy). She noted this was sent out this weekend, and has been in the works with City staff, City Attorney, and the Mayor's Office. She referred to back up materials and added one of her top priorities this coming year is the development and approval of a Comprehensive Water Policy that addresses the topics in the memo (provided in IROC packet) to the NR&C Committee, dated December 15, 2010.

She reviewed the memo, noting that San Diego's economy and quality of life depend on a reliable and financially viable supply of water, and needs a Council Policy to establish guiding principles through which we will ensure our water supply remains secure and affordable.

She indicated the existing guiding principles for water are found in several outdated and incompatible Council Policies which are between 12 and 23 years old, and feels we must start the process of creating a new policy to contain our guiding principles for water and replace the current outdated Council Policies. She also added there are several challenges not included in the current Council Policies, and there is no implementation to some plans which do have timelines. For instance, the current Council Policies were developed more than 10 years ago, and adopted at different times, containing different goals and objectives which are not always consistent.

She indicated the outdated Council Policies should be replaced, and followed by an implementation plan and timelines, then implementation and evaluation. She then briefly went through the Draft Council Policy, which is comprised of 5 sections (General, Water Quality, Conservation, Imported Water, and Local and Regional Supplies).

She added she would also like to see a consistency of the non-potable water quality. She pointed out in the Conservation section, includes the support for tiered rates in order to encourage conservation and discourage waste, all within the framework of Prop. 218. It also includes support for the needs of certain types of private sector businesses in the rate structures.

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In regard to Imported Water, she indicated San Diego must import 90% of water in our region. Given recent experiences with limitations on imported water, there needs to be more local sources of water developed. In the last section, Local and Regional Supply, she noted the City should pursue all feasible strategies to diversify our local supply.

In conclusion, she reiterated they are working with City staff, City Attorney's Office, and the Mayor's office. The NR&C Committee has docketed this for their March meeting or soon thereafter. She stated she would like IROC's recommendations to take to the Committee, and is willing to discuss with any and all stakeholders taking any suggestions.

Vice Chair Hollingworth thanked Councilmember Lightner for her large effort. First, in regard to a recent email he received last week including this information, he indicated he shared it with several business constituencies. He relayed some of their concerns. First, this type of plan can be a back-door way of implementing growth control. Councilmember Lighter stated this is not her intent at all, in fact she believes one of the things that do the City a disservice, is having Drought Level 2 warning on the main website page, and would like to get away from this.

Second, Vice Chair Hollingworth pointed out on Page 2 of the Draft Council Policy (Policy), point 3, would this preclude the Mayor from acting directly with the Metropolitan Water District? It is his perception they have not been terribly effective in the past. Councilmember Lighter stated this is taken from one of the old policies, and would welcome any suggestions for change.

Third, on page 3, point 1, would this obligate the City to spend \$2 billion to upgrade the Pt. Loma Water Treatment Plant? Councilmember Lightner referred to City Attorney Tom Zeleny, he indicated no it would not. Councilmember Lightner stated this is meant to be as simple as possible and use as a framework that then through the implementation, nuances can be developed. She added there are no nuances now, if they are found, please bring to her attention.

Fourth, on page 4, point 6, would that constrain growth at all? Councilmember Lightner stated no, that is not the intent here. This is to get the City to be more sustainable.

Fifth, on page 4, point 8, he indicated this was very radical. Councilmember Lightner added this is a requirement of the City, however she will look in to his concern. Vice Chair Hollingworth offered to provide her a letter with these concerns outlined.

Committee Member Welch thanked Councilmember Lightner for presenting, and asked for elaboration of the impacts of this policy to the Cooling Tower customers. Councilmember Lightner indicated non potable has a cycle to the salinity that it has to be adjusted by some of the industrial users, because of the salt content.

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Chairperson Peugh asked if Source Control can be added to the Policy, in regard to keeping salinity out of our water system. Councilmember Lightner indicated this is in the memorandum, but not in the Draft Council Policy, but will check in to getting this brought forward. Chair Peugh asked Committee Member Webster if he would like to discuss this topic in more detail in the next Environmental & Technical Subcommittee. Committee Member Webster concurred.

Committee Member Kubota shared comment received from his colleagues. One, this document does not emphasize on future development for industrial and commercial for instance. Perhaps this can be embraced in the new Policy. Councilmember Lightner concurred.

Committee Member Billings asked if there has been consideration putting quantitative targets in this. Councilmember Lightner indicated not in this document however, the plan that would come from this document may.

Chairperson Peugh asked for a motion to support this in concept. Committee Member Welch moved, Committee Member Stallard-Rodriguez seconded, with 1 Abstention until concerns are addressed (Hollingworth), all others were in favor.

**7. Presentation: The City's Managed Competition Program**

Mr. Ruiz took this time to remind IROC of the Mayor's announcement to have the Public Utilities Department engage in the Managed Competition Program (Program) process. This was clarified and will include the Billing and Collections area at this time. He introduced Barbara Lamb, Program Manager of the Mayor's Business Office. She provided handouts of her presentation in the packet, and began by giving an overview of the Program. She defined Managed Competition a structured, transparent process that allows an open and fair competition between the public sector employees and independent contractors. This past October, City Council heard and passed the proposed Guide and Ordinance, and the Mayor announced the first two functions for Managed Competition.

Ms. Lamb reviewed a chart of the process and explained each piece. She explained first, there is a Pre-Competition Assessment to see if the function is eligible and appropriate for competition. If studies have been conducted and it is eligible, it would proceed to Phase I: Competition Planning; to Phase II: Solicitation Development; to Phase III: Employee Proposal Preparation and Development; to Phase IV: Source Selection, which includes the evaluation and recommendation to the Mayor, by the technical and cost evaluation groups where if accepted would go to Council; and last, to Phase V: Transition and Post-Competition Accountability, to implement transition plan, including labor actions and monitor service provider performance, and if necessary, repeat the solicitation process.

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She then outlined the current status. The ordinance was passed in November, and she indicated the Mayor had announced the first two functions in September which are Publishing Services and Fleet Maintenance. Council approved the Preliminary Statement of Work and the Mayor just recently announced the next three functions which are: Street Sweeping, Street and Sidewalk Maintenance, and Public Utilities Customer Service Office. Just announced over this past weekend, the Landfill activities are now the 6<sup>th</sup> function.

She added the next steps, are in the process of putting together the Pre-competition Assessment report for Public Utilities. The Preliminary Statement of Work is next (detailed description of services and service levels) and this would go to Council in the May timeframe. If no unexpected events, the Statement of Work would be developed and issuing the Request for Proposals (RFP) in September 2011, receiving proposals by the end of the year.

Questions:

Committee Member Welch asked how the RFP will be distributed. Ms. Lamb indicated the Purchasing & Contracting Department will receive names of companies that wish to receive the RFP and it will be advertised as all other RFP's are.

Ex-Officio Williams asked how the final bids are evaluated, and what process is used to collect costs. Ms. Lamb stated it is a "best value" evaluation, not necessarily a "low bidder" evaluation. She added for collecting costs, a Costing Tool is used, a spreadsheet created to calculate all of the bids and used to develop the proposal cost bid in great detail. Each bid will be fed into the Cost Tool and compared.

Committee Member Billings asked if there are certain new costs with Managed Competition that the City doesn't currently have (i.e. overhead of this entire process, fraud detection, audits, etc.), are these costs layered in? Ms. Lamb indicated yes there are, and they are layered in.

He also asked if another firm wins a particular function, and that function is eliminated from the City, how does this process protect rate payers when the losing firm bids for the next? Ms. Lamb stated the Managed Competition Independent Review Board cannot recommend award to anyone other than the employee proposal team, unless two independent bids are received. And there are protections in place for the employees regarding the transition. Employees do have first offer at jobs if an outside company wins. In regard to the protection of ratepayers, the City's independent auditor will be auditing contract performance at least once per year over the course of the contract, as well as internal audits.

She added the goal is to reduce the costs and increase the quality of the service. The RFP will have provisions in it to which the bidders must respond regarding their experience, quality of their experience, and submit references which will be checked. Chairperson

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Peugh asked if the City bids on a particular bid, how are the costs covered? Ms. Lamb indicated the Business Office has a budget for providing proposal support. If the bidding Department wants to go above and beyond what is provided they may do so if appropriate funds are able to be used, however the amount provided is reasonable. The employees will also be provided proposal support, as well as facilitation of other efficiency analysis.

Committee Member Welch asked if there are periodical assessments of the outside contractors who may win a bid for a city function. Ms. Lamb stated absolutely, the intent is to put in place a quality assurance monitoring/surveillance plan where the City and the contractor work together to provide regular reports and monitoring.

Committee Member Hollingworth asked in regard to pension and fringe benefits differential between the private sector and unionized businesses, can only unionized shops compete against the City and would they have to restructure their pension plan to compete? It was indicated it is an open competition and cannot limit to unionized shops.

Mr. Ruiz added the Department cannot control what the fringe or pension benefits are, the goal is to have the employees propose new work practices to make them that much more efficient. We believe the City does have competitive advantages with regard to the knowledge, prior system and new system.

8. **Harbor Drive Trunk Sewer – Dedicated Reserves for Efficiencies and Savings Transfer (DRES)**

Marnell Gibson, Deputy Director of Engineering & Capital Projects, introduced herself and Carl Spier, Senior Engineer and Bijan Shakiba, Project Manager of the Project. At the recommendation of PUD, she is requesting a transfer of funds (\$4 million) from the Dedicated Reserve for Efficiencies and Savings (DRES) for sewer, to advertise and award the Harbor Drive Trunk Sewer Project. She noted this Project has an EPA Consent Decree deadline of June 30, 2013 and consists of the replacement of approximately 4,700 feet of 48" diameter pipe in the Barrio Logan Community.

She noted they are currently on schedule to begin construction about October, 2011 which will take approximately 1 year. Once approved, the item will move forward to Council and then it's estimated it will take 4-6 months to advertise and award.

Chairperson Peugh asked for an explanation of the intended use of the funds needed, and if this project was in the Rate Case. Ms. Gibson indicated yes it is in the Rate Case as a stand-alone project and will be phase funded. These funds requested along with the current funds will help facilitate the project through fiscal year 2012. It is also in the CIP. The Rate Case estimate is approximately \$13 million and our current total project cost estimate is approximately \$12.4 million.

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Vice Chair Hollingworth expressed his concerns with DRES fund use. He feels the DRES funds should have been rebated to the rate payers in February. His analysis of the CIP Program shows surplus currently. He indicated he feels this project can be funded from the savings, or the two contingency amounts in that program, and has an objection to this request.

Ann Sasaki commented in December 2010, the Wastewater Rate Case was presented and the use of funds. Because of the economic position the City is in, there have been some savings in the construction project area. These funds are being used to accelerate our pipeline replacement program.

She reminded IROC the Rate Case is a spend plan put together in 2007, which is updated each year as the budget is put together. The funds (\$5 million) were to be put into the FY12 budget and this did not occur. Due to savings on a separate project, this savings was put into the DRES until later needed. Currently, this project is in need of this money to move forward, so it is being requested.

Mr. Bailey reminded the IROC we must not be premature in concluding we have “absolute savings” due to the fact that there are many projects that must be completed. And until these projects are completed, we cannot have absolute savings due to the market and the cost of projects.

Committee Member Kubota added in his opinion, this is much like a revolving fund for important projects and this project is important, in the Rate Case, and in need of the funds which is what this account was designed for. Committee Member Billings concurred.

Chairperson Peugh asked for a motion. Committee Member Billings moved to support this request, Committee Member Kubota seconded.

Chairperson Peugh asked Deputy City Attorney, Tom Zeleny, if this was considered appropriate use of DRES funds. Mr. Zeleny indicated there is money coming into the DRES that is construction related, and this is construction money going out, so therefore it is appropriate use of the funds. Mr. Bailey reminded the Committee that at the end of this project cycle (next fiscal year), it is possible there will be excess funds which will in turn go back into the DRES, but at this stage of the project there are not sufficient funds, therefore the funds are in need now.

Vice Chair Hollingworth noted, with regard to the schedule, he has seen fund transfers between projects within the schedule which were not DRES funds. He does not understand why this cannot be done with this project, without using DRES funds. Mr. Bailey indicated he was not with the City at the time, and does not have a reply at this time.



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With the motion and the second already noted, Chairperson Peugh asked for those in favor. With 1 opposed (Hollingworth), all others were in favor of supporting this request.

**9. Leadership Development Program Update**

This item was tabled to the next IROC meeting, due to lack of time.

**10. Public Utilities Agreed Upon Procedures Audit to: 1) Analyze use of Water and Wastewater Funds Associated with Rate Increases; 2) Analyze Sources and Uses of Debt Proceeds for Water and Sewer Revenue Bonds and Notes; and 3) Analyze the Dedicated Reserve for Efficiencies and Savings**

Alex Ruiz, Assistant Director, explained this is an information item to present information on the various finances associated with the last rate case, bonds proceeds use, and the balance of the DRES, for IROC's feedback. Darlene Morrow-Truver, Deputy Director of Employee Services & Internal Controls Division, and Sue LaNier, Program Manager for Internal Controls were introduced. Mr. Bailey added this will give the opportunity of comment on the scope of work that is underway.

Ms. LaNier supplied a copy of the Draft Scope of Work for the independent auditor review of the agreed upon procedures for the Water and Wastewater fund FY08/09. She went through each of the 5 components. The first is the analysis of the use of the 6.5% rate increase (Water fund) which also includes an examination of the City Council resolutions setting forth the rate increases; second, analysis of use of the 8.75% and 7.0% rate increases (Wastewater Fund); third, analysis of the sources and uses of debt proceeds for Water Revenue Bonds and Notes; fourth, analysis of the sources and uses of Debt Proceeds for Sewer Revenue Bonds and Notes; and fifth, an analysis of the DRES to review and provide commentary on the appropriateness of CIP activity and O&M savings deposited to and transferred from the DRES for Water and Wastewater funds.

Committee Member Billings asked what the cost would be. Ms. LaNier stated it is estimated approximately \$100,000.

She added the draft describes our deliverables and form and content of them, to be applied. She asked for individual comments be provided to her by March 4, 2011 so the next cycle can be met for the Request for Proposals process. She will send an electronic copy to the IROC. Mr. Bailey also suggested if the Committee would like to get the comments in, they can be incorporated at that time. Otherwise the comments can be brought back to the next IROC meeting. Chairperson Peugh asked that this item come back to IROC next meeting. Mr. Bailey agreed.

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**11. Subcommittee Reports:**

- a. Finance, *Andy Hollingworth, Chair***  
Nothing to report, last meeting was cancelled.
- b. Environmental & Technical: *Jack Kubota, Subcommittee Member***  
Nothing to report, last meeting was cancelled.
- c. Public Outreach, Education & Customer Service: *Gail Welch, Chair***  
Nothing to report, last meeting was cancelled.

**12. Metro/JPA – Report Out**

This item was not heard.

**13. Discussion of IROC's FY2010 Annual Report Development**

This item was heard out of sequence, following item 14. A “working version” was provided by Chairperson Peugh as well as a draft from the Public Outreach, Education & Customer Service subcommittee. He would like the Committee to identify which issues should be pushed forward. He added his suggestions are in the handout provided.

Vice Chair Hollingworth noted he has finished his 18 page detailed Finance Subcommittee rough draft which addresses CIP status, financial reporting and reserve levels, etc. He added he created such a detailed report to make sure the Committee fulfills the oversight function. Chairperson Peugh asked for suggestions.

Committee Member Welch suggested across the 3 Subcommittees, the discussion should be approached in a similar fashion, avoiding such detail or intense views on certain items so it reads comfortably. Committee Member Webster indicated he took a middle approach, and having not seen the other drafts from the other Subcommittees before today, he would like to review them with more time, and prioritize his items. Chairperson Peugh suggested a Subcommittee be formed to discuss all of the suggestions. Tom Zeleny, Deputy City Attorney suggested those not in the Ad Hoc Committee send comments to Ernie Linares to disseminate to the Committee.

Committee Member Dull commented to Chairperson Peugh's handout, there is an item which reads, “Oversight of MWD, CWA rates and charges”. He indicated since we do not provide oversight to those agencies, perhaps it can be read to be understood IROC can provide oversight to City staff and encourage them to work with those agencies' delegates, that they are being diligent and looking for ways to save money, and ways to cut costs to mitigate rate increases. Chairperson Peugh concurred.

The volunteers for the Subcommittee were identified as Chairperson Peugh, and Committee Members Welch, and Hollingworth. Chairperson Peugh asked for a motion to establish the Subcommittee including these 3 members, with Committee Member Webster being invited to participate. Committee Member Welch moved, Vice Chair Hollingworth seconded, all others were in favor.

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**14. Discussion of the Sale of Water Utility Land to the Carlton Oaks Country Club**

This item was heard out of sequence, following item 10. Mary Carlson, Associate Property Agent, Real Estate Assets Department, introduced herself. Chairperson Peugh noted he would like to know why this property will be sold, as it seems to be a great source of income. Ms. Carlson indicated the Operator of the Country Club has indicated they can no longer afford the rent. They feel if they can purchase the property, this will lower their operating cost, make repairs and continue their operation. If they did not stay, there would be no income for the property at all. She also stated it is in a flood area, and there are limited uses for the property.

She added the San Diego River Conservancy have been actively involved in this process, and if they do purchase the property, there will be a conservation easement to prevent developing the property later, as well as a trail easement for a public trail. Therefore, this will remain a golf course. The San Diego River Conservancy will also have first right of refusal to purchase the property should it go back up for sale. Committee Member Billings indicated he sees no reason to object to the sale. Ms. Carlson noted this item will be going to Council in the May timeframe.

**15. Native Habitat Restoration at Tecolote Canyon Natural Park**

This item was tabled to the next IROC meeting, due to lack of time.

**16. Proposed Agenda Items for future IROC Meetings:**

This item was not heard, due to lack of time.

**14. IROC Members' Comments**

None.

The meeting was adjourned at approximately 12:20 p.m.

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Monica Foster  
Administrative Aide I